

SIXTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
First Regular Session )




Senate  
Office of the Secretary

13 JUL -1 P5:12

SENATE

S. B. No. 245

RECEIVED BY: 

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INTRODUCED BY SENATOR ALAN PETER "COMPAÑERO" S. CAYETANO

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#### EXPLANATORY NOTE

Defamation should be decriminalized in all States. Criminal defamation laws are inherently harsh and have disproportionate chilling effect on the right to freedom of expression.<sup>1</sup>

In countries where a defamation is classified as a civil tort, the financial sanctions imposed must be strictly proportionate to the harm caused and limited by law.<sup>2</sup>

As State Party to the International Convention on the Civil and Political Rights (ICCPR), the Philippines has the state obligation to faithfully comply with the provisions of this treaty.

Article 19 of the ICCPR provides:

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

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<sup>1</sup> Paragraph 106, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, United Nations, General Assembly, 4 June 2012, A/HRC/20/17

<sup>2</sup> Paragraph 107, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, United Nations, General Assembly, 4 June 2012, A/HRC/20/17.

(b) For the protection of national security or of public order (order public), or of public health or morals.

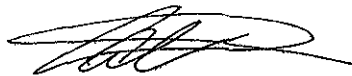
As provided by subparagraph (3), Article 19, we need to balance the need to promote the right of freedom of expression and the government's duty to hold accountable those who abuse it.

Hence, there is a need to repeal the criminal defamation laws in the country since the present criminal defamation laws create a chilling effect on the community. As enunciated by Article 19, an international human rights non-government organization focusing on the protection of the freedom of expression:

Criminal defamation laws are especially problematic from the point of view of free expression. They can lead to the imposition of harsh sanctions, such as a prison sentence, suspension of the right to practise journalism or a hefty fine. Even if they are applied with moderation, criminal defamation laws still cast a long shadow: the possibility of being arrested by the police, held in detention and subjected to a criminal trial will be in the back of the mind of a journalist when he or she is deciding whether to expose, for example, a case of high-level corruption. This is not to say that defamation should not be discouraged; but in accordance with the necessity test, the means used to discourage it should be carefully targeted, to prevent the dampening of legitimate criticism.<sup>3</sup>

In compliance with our duty to the international community and most importantly, to the Filipino people, this bill proposes to repeal Chapter One, Title Thirteen Book Two of Act No. 3815 otherwise known as Revised Penal Code of the Philippines. Specifically, it aims to repeal all forms of criminal defamation, which will thereafter pave the way for the creation of a Civil Defamation Law.

In view of the foregoing, the immediate approval of this bill is earnestly sought.



SEN. ALAN PETER "COMPANERO" S. CAYETANO

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<sup>3</sup> Criminal Defamation, available at <http://www.article19.org/pages/en/criminal-defamation.html> (last accessed 4 October 2012).

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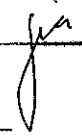


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*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

AN ACT

REPEALING CHAPTER ONE, TITLE THIRTEEN, BOOK TWO OF ACT NO. 3815,  
OTHERWISE KNOWN AS THE REVISED PENAL CODE OF THE PHILIPPINES  
THEREBY DECRIMINALIZING LIBEL AND DEFAMATION

**SECTION 1. *Repealing Clause*** – Articles 353 to 362 of Chapter I, Title XIII, Book 2 of Act No. 3815 are hereby repealed.

All laws, decrees, orders, rules and regulations, or parts thereof inconsistent with this act are hereby repealed or amended accordingly.

**SECTION 2. *Effectivity*** – This act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,